

BACK IN THE DRIVER'S SEAT

Connecticut's Lemon Law

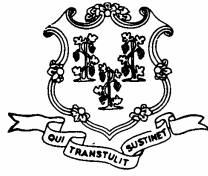
Automobile Dispute Settlement Program



State of Connecticut
M. Jodi Rell, Governor

Department of Consumer Protection
Edwin R. Rodriguez, Commissioner

Department of Consumer Protection
165 Capitol Avenue
Hartford, CT 06106
1-800-538-CARS
860-713-6120



STATE OF CONNECTICUT

M. Jodi Rell
Governor

The Lemon.

It's every car owner's nightmare.

Your dream car spends more time in the repair shop than on the road while you watch the "clock" on your manufacturer's new car warranty ticking away.

Now there's help. If you own a lemon purchased or leased in Connecticut, you may be eligible for the State's arbitration program.



What is the Lemon Law?

Actually, the "Lemon Law" is a nickname for Connecticut General Statute Chapter 743b, "Automobile Warranties". It establishes arbitration as an informal process for resolving disputes between consumers and automobile manufacturers.

The law defines a lemon as a new motor vehicle (passenger car, combination or motorcycle) purchased or leased in Connecticut which does not conform to the manufacturer's express warranty and which, after "a reasonable number of attempts" cannot be repaired.

What does the Lemon Law cover?

The Lemon Law covers new passenger, combination, vehicles and motorcycles purchased or leased in Connecticut;

- 4 Which do not conform to the manufacturer's express warranty
- 4 Which have substantial defects affecting the use, safety or value of the vehicle

And

- 4 The repairs must have been addressed during the eligibility period.
- 4
- 4 If purchased or leased BEFORE October 1, 1998, the manufacturer's defects must occur during the first two years from the original owner's delivery date or the first 18,000 miles on the odometer (whichever period ends first)
- 4 If purchased or leased AFTER October 1, 1998, the manufacturer's defects must occur during the first two years from the original owner's delivery date or the first 24,000 miles on the odometer (whichever period ends first).

**The time period involved may be extended when repair service is unavailable due to war, strike or natural disaster.*

When can I apply?

The eligibility criteria for the Lemon Law arbitration refers to occurrences / days that must be met within the specified time frame. However, you do not have to apply within this time period.

What is not covered?

- 4 Defects not covered under the manufacturer's express warranty
- 4 Defects caused by the consumer's abuse, neglect or unauthorized modification of the vehicle

What's a reasonable number of attempts?

The **same** problem has to be subjected to a reasonable number of repair attempts and continue to exist after these attempts at repair.

The law presumes that a "reasonable number" is four. However, if you have less than four repair attempts for the **same** problem and can justify this is a reasonable number of repair attempts, and repairs have been performed within the eligibility period.

OR

When the vehicle has been out of service for repair at the dealership for a cumulative total of thirty days or more for any number of unrelated problems. These problems must occur within the eligibility period.

OR

In the case of a **safety defect** which is likely to cause death or serious injury if the vehicle is driven, the defect continues to exist after two or more attempts during the first year of operation or the term of the express warranty, whichever period end first.

I've decided to use the Department of Consumer Protection's Arbitration Program.

What Should I do?

You should obtain the Lemon Law "Request for Arbitration" form by contacting the Department by telephone or in writing using the address and numbers contained in this booklet. Additionally, you may access and print the arbitration form from the DCP Internet website at the following address: www.state.ct.us/dcp/lemon.htm. Once you obtain the arbitration form, complete it and forward to the Department as soon as possible with the required \$50.00 fee.

Do I have to notify the manufacturer or leasing company?

Of course, you should report the vehicle's problems immediately to the dealer or the manufacturer. Check your owner's manual/warranty booklet for the address and telephone number of the zone office designated to receive your complaint. The booklet will also tell you if the manufacturer requires written notification of a claim requesting a refund or replacement vehicle. If such notification is required, you must write to the manufacturer. Include a copy of your letter to the manufacturer with your Lemon Law application.

If you lease your vehicle, you must advise the leasing company you are applying for Lemon Law arbitration and if they wish to be a party to the proceedings, they must advise the Department of their intent within ten (10) days of their receipt of your letter. The letter to the leasing company must be sent certified or registered and a copy of the letter and postal receipt must be included with your application.

Is there a charge?

Yes. The law requires that you pay a \$50.00 filing fee when you submit your request for arbitration. If it is determined that your case does not qualify for arbitration, the fee will be returned to you. Additionally, the manufacturer is required to pay a fee of \$250.00.



How soon will I know whether I qualify?

The Department reviews your Request for Arbitration to make sure all necessary documents have been submitted. If information has been omitted, your Request for Arbitration and filing fee will be returned to you along with a list of the information or documents required to complete the submission. If all documents and information have been included, the Department will complete an initial review of your case to determine whether basic eligibility criteria have been met. You will be notified within five business days of the results.

If the Department's review indicates your case is not eligible for arbitration, your filing fee will be returned to you with an explanation as to why your case did not qualify. You may file a written appeal with the Department if you do not agree with its findings.

If the Department's review indicates your case is eligible for arbitration, the manufacturer will be notified and asked to submit a manufacturer's statement and filing fee. Three arbitrators, and an Automotive Technical Expert comprise an arbitration panel.

The arbitration panel will make the final determination as to the eligibility of your case. It is possible for a case to be deemed ineligible by the arbitration panel even though it was initially deemed eligible by the department.

Who are the panel members?

An arbitrator is a volunteer who is trained in the settlement of disputes. All volunteers have completed a training program before being appointed to a panel. Each panel is made up of three arbitrators and an Automotive Technical Expert. All documents pertaining to the case are forwarded to the panel prior to your scheduled hearing.

Type of hearings

When you file your Request for Arbitration, you must choose between an “oral” or “documentary” hearing. The oral arbitration process generally results in a more expeditious rendering of a decision.

Oral hearing

If you choose oral arbitration, you and the manufacturer’s representative will be present at the scheduled hearing. Both parties will have the opportunity to present their case before an arbitration panel.

The hearing is informal and not structured like a court of law. Typically, the consumer is heard first, followed by the manufacturer. Either party is able to ask the other questions. The arbitration panel may also have questions and may order the Automotive Technical Expert to inspect the vehicle. If possible, bring the vehicle to the hearing to avoid scheduling an inspection for a later date.

How should I prepare for an oral arbitration hearing?

Use your “Request for Arbitration” form as a guide. The form contains much of the information you will need at the hearing.

Bring records of everything pertaining to the dispute including all correspondence, work orders, receipts, and warranties.

Organize your records – Putting them in chronological order will help guide you in presenting the history of the problem.

Prepare an outline - Outlining the major points you wish to present will help you to remember relevant information.

Be prepared to discuss the problem in its entirety.

You should:

1. State the specific nature of the defect;
2. Restate any conversations with dealer's or manufacturer's representatives;
3. Describe any new developments which may have occurred since you submitted your "Request for Arbitration" form;
4. Describe any repair attempts or other actions taken;
5. State your opinion as to what action would constitute a fair resolution of the dispute;
6. State why you feel the vehicle is a "Lemon." For example, how has the use, safety, and/or value been substantially impaired?
7. Prepare a list of questions to ask the manufacturer's representative.
8. Prepare a final summary, which should briefly review the facts you have discussed, this should include a statement regarding your opinion of a fair resolution to the dispute.

REMEMBER

The purpose of the hearing is to allow the arbitrators to gather facts, evaluate information presented by both sides and render a fair decision. Therefore, be prepared to offer SUBSTANTIAL PROOF of each point you make especially those you feel the manufacturer may dispute.

Documentary hearing

If you choose documentary arbitration, you and the manufacturer's representative will be required to submit to the Department sworn statements and other evidence you would like the panel to consider. You will receive copies of each other's statements and have the opportunity to respond to them in writing. The arbitrators will meet and review the statements and responses. The panel will base their decision solely on documentation and materials submitted by the parties prior to the hearing. Parties cannot present oral testimony, but may observe documentary hearings. If the panel orders a vehicle inspection, one will be scheduled at a later date and the panel will reconvene to render their decision.

Will I need an attorney?

The "Lemon Law" Program is designed to be accessible to the lay person. A majority of consumers coming through the program do not use an attorney; however, you are free to use one if you so choose. If your attorney will be presenting your case, you must notify the Department of Consumer Protection no later than two (2) days prior to the hearing.

Also, if anyone other than the purchaser of the vehicle will be presenting the case, you must also notify the Department no later than one (1) day prior to the hearing. If someone is going to accompany you and present testimony, no prior notification is required. You also have the right to have a third party assist you in your presentation or act as a consultant or interpreter.



My vehicle meets the definition of a "Lemon" and my case has been accepted for arbitration. Do I automatically get a refund or replacement vehicle?

The law provides basic guidelines for remedies, but there is no fixed rule. Each case is treated individually by the arbitration panel when determining an award. If their decision is in your favor, the award will generally be:

A replacement with an identical or comparable new car.

---- OR ----

A refund of the contract price.

The panel may or may not award a mileage deduction for the use that you have had of the vehicle. The statutory mileage deduction is computed by multiplying the present mileage of the vehicle times the contract price and dividing that figure by 120,000. Refund or replacement awards may also include reimbursement for other damages or costs. We advise you to have receipts.

If the panel finds the defects in question do not substantially impair the use, safety or value of the vehicle, a “no action” decision is rendered. Therefore, no further action to remedy the problem shall be required of the manufacturer. Your recourse at this point would be to seek legal counsel for private litigation against the manufacturer. You could only reapply for Lemon Law arbitration for a different defect, which meets the eligibility requirements.

When can I expect an arbitration decision?

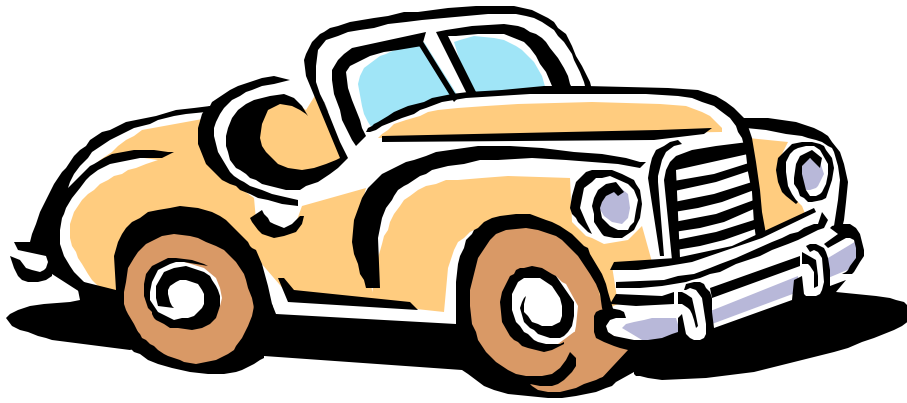
The Department endeavors to resolve disputes within 60 days from the date the completed form is received to the date a decision is reached. Once the panel renders its decision, it cannot be changed or modified by the arbitrators or the Department.

What if I’m dissatisfied with the arbitration decision?

In most cases, the decision of the arbitrators will be final. You will not be able to appeal the decision to the court except under very limited circumstances. Therefore, if you are considering taking legal action against the manufacturer of your automobile, you should consult with a private attorney **before** signing the Agreement to Arbitrate. The best way to find out how to appeal a decision is to consult with an attorney.

When can I expect the manufacturer to comply with an arbitration award?

The written decision will state the exact date for performance. The arbitrators will make every effort to see that the problem is resolved at the earliest possible date. The Department will contact you within ten (10) days after the performance date to determine if the manufacturer has complied with the arbitrators’ decision. If the manufacturer has not complied with the award, the case is referred to the Office of the Attorney General.



What if I request Arbitration, but the manufacturer and I resolve the problem on our own?

You are free to reach a settlement through your own efforts at any time before the arbitrators render their decision. If this happens, you **must** contact the Department with the specific terms of the decision settlement. The information should include the following:

1. The date on which you accepted the manufacturer's offer of a pre-hearing settlement.
2. The specific terms of the pre-hearing settlement:
 - Was there a Refund, Replacement , Repair or Other Remedy?
 - Who will pay for the difference in model/year upgrade? How much will it be?
 - Will there be a deduction for mileage?
 - Who is responsible for the registration of the new vehicle, including the cost of registration?
 - Who is responsible for the difference in sales tax?
 - If the settlement is a repair, what will happen if the repair does not work?
 - What type of warranty will be given with the replacement or repair?
 - What monies is the consumer responsible for?
 - What monies is the manufacturer responsible for?
3. The date by which the terms of the decision settlement will occur.
4. Before you accept an agreement from the manufacturer make sure all costs are in writing. This will avoid any problems or "hidden costs" when the exchange takes place. The Department has no jurisdiction over a pre-decision settlement.



What if we reach an agreement on our own but the manufacturer does then not meet the terms, what should I do?

Notify the Department of Consumer Protection, Lemon Law Office in writing, if the terms of your settlement are not met within a specified time frame. At that point, the State arbitration process may resume and a new hearing date scheduled. Keep in mind, the Lemon Law legislation does not cover settlements made between a consumer and manufacturer prior to a decision by the arbitrators.

Certified manufacturer's programs

If your manufacturer has an arbitration program that has been certified by the Office of the Attorney General, you will be required to use that program before you can be eligible for the Lemon Law arbitration program. As of this printing no third party dispute resolution program has been certified by the Office of the Attorney General.

If you are injured by a procedure of a certified Manufacturer's program, you may file a complaint with the Office of the Attorney General. You may appeal to the state arbitration panel for a new hearing. The fees and procedures are the same as outlined earlier for arbitration hearings.

Non-certified manufacturers' programs

Some manufacturers offer non-certified arbitration programs. If this is the case, you have the option of using that program or bringing your case directly to the Department of Consumer Protection. Before you decide to use a non-certified program, be sure you understand all the consequences of your entering into the program, including possible loss of rights to seek further remedies. Check your warranty book to see if your manufacturer participates in a third party dispute resolution program.

Your Right To Know: Posted notices in dealerships

If any manufacturer does not have an arbitration program certified by the Attorney General, then a conspicuous notice of the state-operated arbitration program must be prominently displayed in all car dealerships. Keep in mind, the Lemon Law Arbitration Program is designed for consumers and manufacturers, not dealerships.

Owner's Resource List

Department Of Consumer Protection
Automotive Dispute Settlement Program
165 Capitol Avenue
Hartford, CT 06106 1-800-538-CARS (860) 713-6120

Information on Consumer Class Actions Litigation in Auto Cases

Center for Auto Safety
2001 S. Street, N.W.
Washington, D.C. 20009 (202) 328-7700

Legal Referrals

Connecticut Bar Association
101 Corporate Place
Rocky Hill, CT 06067 (860) 721-0025

Information on Auto Recalls or Safety Defects

National Highway Traffic Safety Administration (NHTSA)
Office of Public Affairs & Consumer Service
400 Seventh Street SW
Washington, DC 20590 1-800-424-9393

The state in which the vehicle was purchased/ leased determines which state's Lemon Law Program you may be eligible for, not the state in which you reside. The criteria in this booklet pertains only to Connecticut. If you purchased/ leased the vehicle in another state, check with that state for eligibility requirements.

State Agencies

State of Connecticut

Department of Consumer Protection
Automobile Dispute Settlement Program
165 Capitol Avenue
Hartford, CT 06106
(Connecticut Only)
1-800-538-CARS
(860) 713-6120

State of Massachusetts

Consumer Coordinator
Executive Office of
Consumer Affairs
One Ashburton Place
Room 1411
Boston, MA 02108
(617) 727-7780

State of Rhode Island

Office Of the Attorney General
150 South Main St.
Providence, RI. 02903
(401) 274-4400

State of New York

Chairperson & Exec.
Director
New York State Consumer
Protection Board
99 Washington Avenue
Albany, NY 12210
(518) 474-8583

